UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1259
1 April 1998

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1259th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 11 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Thirteenth periodic report of Lebanon (continued)

ORGANIZATIONAL AND OTHER MATTERS (continued)

Draft general recommendation

* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1259/Add.1.

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GE.98-15536 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Thirteenth periodic report of Lebanon (CERD/C/298/Add.2; HRI/CORE/1/Add.27/Rev.1) (continued)

1. At the invitation of the Chairman, the delegation of Lebanon resumed places at the Committee table.

2. The CHAIRMAN invited the delegation of Lebanon to reply to the questions put to it the day before by Committee members.

3. Mr. MAAMARI (Lebanon), of the Ministry of Foreign Affairs, wished to clarify what Mr. Garvalov had seen as a contradiction, namely, the fact that Lebanon was a unitary State but possessed community laws and courts. He explained that Lebanon was a unitary State in the sense that there was one Constitution, one legislature and one Government. Although the members of a given religious community could be more numerous in one region than in another, no territory was reserved exclusively for specific groups.

4. The 18 officially recognized religious communities had been invited to submit their codes of personal status to Parliament. The codes and the community courts dealt solely with issues relating to marriage and descent. With regard to succession, there were on the one hand specific rules for each of the Muslim communities and on the other a uniform civil law that had been enacted by Parliament in 1957 and applied to all non-Muslim communities.

5. Under the Constitution, all Lebanese were equal before the law, namely, equal before all laws that did not concern marriage, descent or succession. Thus instruments such as the Criminal Code and the Civil Code applied to all citizens.

6. Political and administrative positions were shared among the various communities according to a quota system.

7. With regard to the incorporation of the provisions of the Convention into positive Lebanese law, he explained that international treaties that had been ratified by Lebanon entered into force by virtue of the exchange of instruments of ratification in the case of bilateral treaties, and by virtue of the deposit of instruments of ratification or accession in the case of multilateral treaties. In the hierarchy of norms, such treaties had a higher standing than the law.

8. With regard to the implementation of the Convention, he said that according to some of its provisions - article 7, for example - the State party was required to adopt certain measures in different areas. As long as the State party had not adopted such measures, by decree or through draft legislation, article 7 could not be said to have been implemented. The State did not, however, incur any legal sanctions.

9. Other provisions of the Convention could be implemented immediately by the competent authorities. Thus, if the Government promulgated a decree that ran counter to the Convention, it could be revoked by the Council of State on the grounds that it was not in conformity with the Convention. On the other hand, a criminal court could not sentence an agent of the State to prison for having flouted a given article of the Convention unless the penalty was expressly provided for in the Criminal Code, since the Convention indicated neither the nature nor the duration of the penalty to be imposed. It was a question of the principle of the legality of offences and penalties.

10. Articles 317 and 318 of the Criminal Code penalized acts that provoked religious or racial dissension. Other instruments, notably the Constitution, regarded the communities rather as religious groups. For example, the Evangelical community was not an ethnic group. The Greek Catholics, known as Melchites, and the Greek Orthodox community were not Greek, nor even of Greek descent. They were known as Greeks because of their Byzantine liturgy. In addition, a person could switch communities, for example, on marriage or for reasons of inheritance. Thus, for the purposes of marriage, Christians of the Roman persuasion paid virtually no attention to the fact that one of the engaged couple was a member of a different community.

11. The community leaders were men of religion. Politicians, even though they might be elected or appointed on the basis of their membership of a given community, did not consider that they represented that community alone. The President of the Republic, for example, represented all Lebanese.

12. Since the establishment of the Constitutional Council on 14 July 1993, in accordance with new article 19 of the Constitution, community leaders could request the Council to revoke any law that was contrary to the Constitution if it infringed freedom of conscience, for example, or freedom of religious worship or religious teaching.

13. Recognition of the communities did not constitute an infringement of the Convention because the intention was to protect the interests of all and not to deprive one group or another of its rights, which would contravene article 1, paragraph 1 of the Convention. As Mr. de Gouttes had said, it was an original case, in which article 1, paragraph 4 of the Convention was applied to all groups at the same time. As Mr. Valencia Rodríguez had pointed out, the system had ensured stability in the country and no one could blame the Lebanese for having adopted it.

14. On the other hand, if the distribution of political and administrative positions among the communities on the basis of specific quotas was deemed to constitute racial discrimination in the sense of article 1, paragraph 1 of the Convention, the system should be called into question and article 316 of the Lebanese Criminal Code revoked. Article 316 prohibited associations whose aim was to alter the economic or social structure of the State or the basis of society. Its real target was groups promoting communism or fascism.

15. Replying to Mr. Valencia Rodríguez, he said that confessionalism had achieved its aims insofar as it had made it possible for the communities to take part in the political and administrative life of the country. According

to the preamble of the Constitution, balanced regional development in cultural, social and economic terms was a basic pillar of the unity of the State and the stability of the regime.

16. The elimination of the system of confessionalism had been called for in the Taif Agreement. According to article 95 of the Constitution, parliamentary seats had initially been shared equally among Muslims and Christians. A national committee composed of, inter alia, the President of the Republic and political, intellectual and social personages, was to study ways of eliminating confessionalism and submit its conclusions to Parliament. Such changes would of course not take place overnight, since they depended on the political and military situation in the country. Part of southern Lebano and the Bekaa Valley were still occupied by the Israeli army, contrary to the terms of Security Council resolution 425.

17. The right to move freely within Lebanese territory was enshrined in the preamble to the Constitution. There were plans to rehouse people who had bee displaced during the troubles in Lebanon. A programme to that effect was under way and there had been no opposition from the people concerned. The only barrier was financial. Funds were needed to meet the needs of those who wished to go back to their homes and whose homes had been damaged, and to hel those who would have to leave housing which did not belong to them. In addition, schools would have to be opened and infrastructures established. Those who had been dispossessed would recover their property without difficulty as it had been duly recorded in the land register.

18. A ministry for displaced persons had been established.

19. He said that there was no policy in Lebanon to naturalize Palestinians. Indeed, the Palestinians refused to be naturalized, in line with the League o Arab States decision on that question. In that regard, the Convention did no apply to refugees who received assistance from an international organization such as the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). The original intention had been for Lebanon to contribute around 0.6 per cent of UNRWA's budget. In practice, Lebanon was paying the rent on the land where the Palestinian camps had been built.

20. Lebanon drew a distinction between the armed Palestinians who had taken an active part in the first phase of the war in Lebanon, and its Palestinian residents, who were not considered agitators.

21. Property ownership on the part of foreigners was subject to quotas, chiefly because Lebanese territory was not very extensive. The quotas were applied to all foreigners and did not constitute a refusal to sell goods or services on racist grounds.

22. The delegation of Lebanon would communicate to the competent authoritie the Committee's recommendation that, in accordance with article 14 of the Convention, Lebanon might recognize the competence of the Committee to receiv and consider communications from individuals or groups of individuals claimin to be victims of a violation by the State party of any of the rights set fort in the Convention. Lastly, the technical questions that had been asked would be communicated to the competent authorities and answered in the next report.

23. Mr. YUTZIS said that, after having heard the Lebanese delegation's replies, he wished to make a further comment.

24. It seemed that, in Lebanon, the distinction between membership of an ethnic group and religious creed remained rather unclear, which could of course be explained by the particular situation prevailing in that country. There were certainly other examples elsewhere in the world of religion and membership of an ethnic group being confused, often for political reasons: he was thinking particularly of the case of the former Yugoslavia.

25. However, in Lebanon's case such imprecision raised the question of who really had the political power. On the evidence, political power was currently divided up on the basis of religious criteria, since it was in fact shared between Maronite Christians and Muslims and, as the delegation of Lebanon had stated, the possibility of moving from a bi-confessional regime to another system was still very remote, for the situation was rooted in constitutional custom. Power-sharing between two religions might of course seem preferable to domination by a single religion, but it was nevertheless the case that, if changes were not made, political discrimination would inevitably occur in Lebanon insofar as the other communities would never be able to accede to power.

26. The CHAIRMAN, speaking in his capacity as a Committee member, said that the same problem arose in other countries. The main thing was that the system in force was acceptable to all. Gradual evolution was in any case preferable to revolution. Some members of the Committee had questioned whether a quota-based solution in both the political and the administrative spheres was compatible with the principles of the Convention. One answer to that was that quotas were also a way of ensuring the representation of minorities who would otherwise be systematically excluded from public life. The same issue had arisen in Egypt in seeking to ensure the fair representation of women or of the Coptic minority in Parliament.

27. With regard to the Palestinians, the important thing was that they had the right to choose between returning and receiving compensation. Undoubtedly the majority of them would above all wish to exercise their right to self-determination on their own territory and would not wish to obtain Lebanese nationality.

28. The practical solutions that were applied to such problems should be judged in the light of the particular situation in the countries concerned.

29. Mr. GARVALOV (Country Rapporteur), summarizing the debate, said that delays in the submission of the reports were understandable considering the political, economic, social and psychological difficulties the State party had experienced: Lebanon could not be expected to meet all its obligations under the Convention at one time.

30. The dialogue that had been established with Lebanon had been most fruitful and the Committee had particularly appreciated the copious information on the implementation of article 1 of the Convention, which States parties tended to neglect in their reports. Of particular interest were the details concerning the implementation of article 1, paragraph 4.

31. On the other hand, insufficient information had been given concerning the implementation of articles 4 and 6 and the Committee would have liked more details of the remedies available to individuals who were victims of discrimination. The only legal provisions cited were those of articles 317 and 318 of the Criminal Code, which gave effect to article 4 of the Convention. Lastly, the report said practically nothing about the implementation of article 7, despite the fact that the article dealt with the very important question of combating discrimination in the educational and cultural spheres, an area in which the State party was required to take positive steps. It would be highly desirable for Lebanon to supply information on that subject in its next report, as the Committee had just initiated a joint study on the issue with the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

32. He had not been completely satisfied with the explanations given as to the overlap between membership of an ethnic group and religious creed, although he respected the State party's official position on the subject. In particular, the assertion that Greeks - whether Catholic or Orthodox - living in Lebanon were Greek in no more than name and were primarily characterized by their adherence to the Byzantine liturgy, seemed something of an exaggeration. He himself had visited the country several times and had met Greeks who spoke Greek perfectly well, and not only at church. Similarly the Kurds were undoubtedly Muslims, but they also constituted a completely separate community.

33. The confusion between membership of an ethnic group and religious confession doubtless had its origins in the particular situation of the country, but when the Lebanese asserted that that was "part of the democratic system", one could only give them the benefit of the doubt.

34. Nevertheless, he once again expressed his gratitude to the delegation of Lebanon for its spirit of cooperation and hoped that it would be able to report further progress when it next appeared before the Committee.

35. Mr. MAAMARI (Lebanon) wished to take the floor once more in order to reply to Mr. Yutzis' comment. He thanked the Chairman for having anticipated him by pointing out the advantage the quota system might have over universal suffrage in maintaining a balance between the various communities and maintaining civil peace. He drew Mr. Yutzis' attention to the fact that, although the quota system had been maintained for high public office, no position was specifically reserved for a given creed, contrary to what happened with the highest political offices.

36. With regard to the confusion between religious and ethnic communities, the two things did in fact usually coincide. One characteristic case was that of the Armenians. In that respect he begged to differ with Mr. Garvalov's comment on the Greek community: as a Greek Catholic himself, he could assure him that his fellow believers rarely spoke Greek.

37. The CHAIRMAN thanked Mr. Maamari for his explanations and announced that the Committee had completed its consideration of the thirteenth periodic report of Lebanon.

38. The delegation of Lebanon withdrew.

The meeting was suspended at 11.20 a.m. and resumed at 12.55 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Draft general recommendation

39. Mr. DIACONU requested Committee members to take note of document CERD/C/51/Misc.43, which was a draft general recommendation on the collection of data concerning ethnic minorities or groups, and to communicate to him any comments so that he could improve the text.

The meeting rose at 1 p.m.